

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

ROBERT DERUYSCHER

Plaintiff,

v.

Case Number 06-15260-BC  
Honorable Thomas L. Ludington

MICHIGAN DEPARTMENT OF  
CORRECTIONS HEALTH CARE,

Defendant.

\_\_\_\_\_ /

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION, OVERRULING PLAINTIFF'S OBJECTIONS,  
AND DISMISSING CASE WITHOUT PREJUDICE**

This matter is before the Court on the plaintiff's objections to a report issued by Magistrate Judge Charles E. Binder on December 13, 2006, recommending that the case be dismissed *sua sponte* for failure to exhaust administrative remedies. In his objections, the plaintiff urges the Court to amend the Prisoner Litigation Reform Act (PLRA), 42 U.S.C. § 1997e for largely unintelligible reasons: the defendant's employees forced the plaintiff to initiate a complaint because of their unforeseeable and degenerate conduct; and the defendant's failure to "go beyond their policy approved operating procedures to provide a response within a reasonable time." It appears that the plaintiff is dissatisfied with the prison's medical staff along with the prison's general conditions and educational opportunities. Finally, he states that he has filed a Step II grievance, but believes that a Step I grievance along with a complaint ought to be sufficient to have the merits of his case heard.

After conducting a *de novo* review of case in light of the plaintiff's objections, the Court is convinced the magistrate judge reached the correct result. First, this Court has no power to amend the PLRA; only Congress is empowered to enact such changes. Second, although the plaintiff

believes that the merits of his case should be heard, he has not demonstrated that he has exhausted his administrative remedies as the PLRA requires. *See* 42 U.S.C. § 1997e(a). As the magistrate judge noted, the Michigan Department of Corrections provides prisoners with a three step grievance process. *See* MDOC Policy Directive 03.02.130. The plaintiff concedes that he has only filed a Step II grievance. His objections to the report and recommendation therefore lack merit.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt #7] is **ADOPTED**, the plaintiff's objections [dkt # 8] are **OVERRULED**, and the case is **DISMISSED WITHOUT PREJUDICE**.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: January 9, 2007

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 9, 2007.

s/Tracy A. Jacobs  
TRACY A. JACOBS